



Department of Justice

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JUSTICE DEPARTMENT FILES LAWSUIT AGAINST CONSOLIDATED MULTIPLE LISTING SERVICE OF SOUTH CAROLINA FOR RESTRAINING COMPETITION AMONG REAL ESTATE BROKERS

CMLS Rules Obstruct Competition from Low-Priced and Innovative Real Estate Brokers

WASHINGTON — The Department of Justice’s Antitrust Division today filed a lawsuit against the Consolidated Multiple Listing Service (CMLS) of Columbia, S.C., challenging its rules that unreasonably restrict competition among real estate brokers. The Department said that CMLS’s rules have caused consumers buying or selling homes in the Columbia, S.C. area to pay more for real estate brokerage services.

The Department’s civil antitrust lawsuit was filed today in U.S. District Court in Columbia. In its lawsuit, the Department alleges, among other things, that CMLS requires brokers to perform a prescribed set of services, which limits consumer choice, and excludes competitors who might offer innovative options that could provide better services to consumers in that area.

“Buying or selling a home is one of the most significant financial transactions in the lives of most Americans. The kinds of rules CMLS imposes stifle competition to the advantage of its members and the disadvantage of home buyers and sellers,” said Thomas O. Barnett, Assistant Attorney General in charge of the Department’s Antitrust Division. “Today’s lawsuit seeks to remove unlawful impediments to competition for real estate brokerage services in the Columbia area, so that consumers will benefit from the additional options and reduced fees that competition can bring.”

Like multiple listing services (MLSs) elsewhere in the country, CMLS is a regional joint venture of real estate brokers that combines its members’ home listings information into an electronic database that is made available to all brokers who are members. The database serves as a clearinghouse for the members to communicate information among themselves, such as descriptions of the listed properties for sale, and offers to compensate other members if they locate buyers. In addition, the database allows members who represent buyers to search for nearly all the listed properties in the area that match the buyer’s needs.

By providing an efficient means of exchanging information on home listings, MLSs can benefit consumers, but that same role makes access to the MLS database – and therefore MLS membership – critically important for any broker seeking to serve clients efficiently in the MLS’s service area, the Department said. Consequently, the rules adopted by CMLS governing who can be a member and how members must run their businesses have a significant impact on competition among brokers in the area served by the MLS.

In its court filing, the Department said that the rules that real estate brokers in Columbia have adopted through CMLS unreasonably restrict competition among brokers in the area. For example, unlike brokers elsewhere in the country, CMLS members are prevented from offering home sellers the opportunity to avoid paying a broker's commission if the seller locates a buyer on his or her own. CMLS rules also require brokers to perform a prescribed set of services – such as being involved in the negotiation of a home's sale price and attending the closing – even if the broker's customer would prefer to perform some of these tasks on his or her own in order to save money on the real estate broker's fee.

The Department said that CMLS's rules also give Columbia real estate brokers the ability to exclude rivals from outside Columbia who might offer local consumers innovative brokerage options that save them money or provide services that better match their needs. The Department's lawsuit challenges these and other CMLS rules that unreasonably restrain competition among real estate brokers and thereby lead to reduced consumer choice and higher fees paid by consumers.

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